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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/691,263

10/22/2003

D. Mark Tucker

2003-12 US

5444

7590
WARD KRAFT, INC.
Att:Stephanie Hay
P.O. Box 938
2401 Cooper Street
Fort Scott, KS 66701

10/16/2007

EXAMINER

BATTULA, PRADEEP CHOUDARY

ART UNIT	PAPER NUMBER
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3722

MAIL DATE	DELIVERY MODE
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10/16/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/691,263

Applicant(s)

TUCKER, D. MARK

Examiner

Pradeep C. Battula

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3722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

This action is in response to the reply filed on September 10, 2007

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 10, 2007 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 25, and 27 – 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over McKillip in view of Kelly.

McKillip discloses a business form, comprising: a sheet of printable material 12 (Column 4, Lines 6 – 10; Figures 1 & 3, Item 12) having a document portion carrying documentation 24 (Column 5, Lines 41 – 44; Figure 1, Item 24), and a labeling portion where labels 22 exist (Column 5, Lines 41 – 44; Figure 1, Item 22); a layer of adhesive material 18 positioned over the labeling portion of said sheet (Column 5, Lines 11 – 13; Figure 1, Item 18); a release layer 14 positioned over said layer of adhesive material

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and coextensive therewith (Column 5, Lines 11 – 13; Figure 1, Items 14 and 18 can be seen co-extensive); a label area 22 formed in said sheet in said labeling portion, said label area defining a label separable from said sheet and said release layer while retaining said adhesive material on said label (Figure 1, Items 14, 18, 22 – the figure shows the labels being peeled with the release layer staying and the adhesive going).

McKillip does not disclose a pouch area formed in said release layer, said pouch area overlying said label area and extending outwardly of the perimeter of said label area but ending short of the perimeter of said labeling portion so as to form a frame area in said release layer between the perimeter of said pouch area and the perimeter of said labeling portion; said release liner in said frame area being separable from said sheet and from the remainder of said release liner to expose said adhesive in said frame area.

McKillip does disclose an extra substrate and adhesive layer. It would have been obvious to a person having ordinary skill in the art to only have one substrate and adhesive layer since it has been held that omission of an element and its function in a combination where the remaining elements perform the same function, of providing labels, as before involves only routine skill in the art. *Ex parte Wu*, 10 USPQ 2031 (Bd. Pat. App. & Inter. 1989)

Kelly discloses an adhesive label 30 for a carton 20 (Column 7, Lines 7 - 10) having a first die cut 60 only through said sheet and adhesive layer (Column 8, Lines 12 - 16; Figure 7, Items 30, 60) which defines a label through only said sheet and adhesive (Column 8, Lines 14 – 15) and a second die cut 58 through only said release liner

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outwardly the first die cut and defining in said release liner a frame around a window area (Column 8, Lines 45 - 52; Figure 7, Items 58, 60) and forming a pouch.

Furthermore the release liner is obviously separable from the sheet and adhesive section considering it is a release liner. Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide the cuts of Kelly in McKillip's label in order to create a business form with multiple removable labels with a minimal amount of layers (Figure 7; Kelly).

In regards to Claim 27, as applied to Claim 25, McKillip modified by Kelly further discloses the upper side of said release liner inside said pouch area, together with the adhesive material exposed upon removal of said release layer in said frame area, forms a pouch for receiving documentation when said labeling portion is adhered to a container (Figure 6; Figure 2; Kelly – nearly identical to Figure 4A filed March 23, 2007).

In regards to Claim 28, as applied to Claim 25, McKillip modified by Kelly further discloses said document portion is separable from said labeling portion along a line of weakness 20 (Column 5, Lines 24 – 26; Figure 1, Item 20 – Horizontal; Examiner considers it to be a line of weakness since the substrate is weakened for separation).

In regards to Claim 29, as applied to Claim 25, McKillip modified by Kelly further discloses said label is formed by a die cut 60 through only said sheet and adhesive material layer (Column 8, Lines 12 – 16; Figures 4 & 7, Item 60; Kelly), and said frame is formed by a die cut 58 only through said release liner (Column 8, Lines 45 – 52; Figure 7, Item 58).

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2. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over McKillip in view of Kelly and Smith (U.S. 5,330,232)..

In regards to Claim 26, as applied to Claim 25, McKillip modified by Kelly further discloses said release liner is capable substantially transparent considering it is glassine just as disclosed by applicant (Column 5, Lines 17 – 19; McKillip) wherein the liner is printable since it is disclosed it is a substrate (Column 5, Lines 11 – 20; substrates are inherently printable).

McKillip modified by Kelly does not disclose the liner has indicia printed in mirror image on its upper side so as to render said indicia legible upon removal of said label.

Smith discloses a transparent film 20 with front 21 and rear 22 surfaces where the front receives no indicia and the rear receives reverse printed indicia 25 (Column 3, Lines 29 – 36). Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to incorporate the teachings of Smith to McKillip modified by Kelly on the rear surface of substrate 12 in order to create a label with indicia that is protected by the front surface and will not be damaged when placed on a carton and rubbed by various objects.

Response to Arguments

Applicant's arguments with respect to art have been considered but are moot in view of the new ground(s) of rejection.

McKillip discloses a form wherein labels are present in another section of the form. Labels can be placed on various items such as cartons.

Kelly discloses several integral labels created from the same general composition as McKillip and the Applicant (Liner, adhesive, and printable surface). Furthermore the labels are to be put onto a carton or package. Furthermore Kelly's invention is nearly identical to that shown in Figure 4A as provided by the Applicant. The modification is merely using the teaching of cuts as disclosed by Kelly to create more labels as disclosed by Kelly.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pradeep C. Battula whose telephone number is 571-272-2142. The examiner can normally be reached on Mon. - Thurs. & alternating Fri. 7:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica S. Carter can be reached on 571-272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PCB
Patent Examiner
October 10, 2007

Monica Carter
MONICA CARTER
SUPERVISORY PATENT EXAMINER